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13
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

14 In re:	15 USA COMMERCIAL MORTGAGE COMPANY,	16 Debtor.	17 Case Nos. BK-S-06-10725 LBR Case Nos. BK-S-06-10726 LBR Case Nos. BK-S-06-10727 LBR Case Nos. BK-S-06-10728 LBR Case Nos. BK-S-06-10729 LBR
In re:	USA CAPITAL REALTY ADVISORS, LLC,	Debtor.	Chapter 11
In re:	USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	Debtor.	
In re:	USA CAPITAL FIRST TRUST DEED FUND, LLC,	Debtor.	
In re:	USA SECURITIES, LLC,	Debtor.	Hearing Date: March 15, 2007 Hearing Time: 9:30 a.m.

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Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Securities, LLC
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA First Trust Deed Fund, LLC

DECLARATION OF SUSAN M. SMITH IN SUPPORT OF:

(1) FIFTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC – MISFILED CLAIMS; (2) SIXTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC – CLAIMS BASED ON PREPETITION EQUITY SECURITY INTERESTS OF USA CAPITAL FIRST TRUST DEED FUND, LLC; (3) SEVENTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC – AMOUNT OF PROOFS OF INTEREST; AND (4) EIGHTH OMNIBUS OBJECTION OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC – PROOFS OF CLAIM AND PROOFS OF INTEREST FILED BY MEMBERS OF USA CAPITAL FIRST TRUST DEED FUND, LLC WHO FILED BOTH PROOFS OF CLAIM AND PROOFS OF INTEREST

I, Susan M. Smith, hereby declare and state as follows:

9 1. On April 13, 2006 (“Petition Date”), USA Commercial Mortgage Company
10 (“USACM”), USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund,
11 LLC (“DTDF”), USA Capital First Trust Deed Fund, LLC (“FTDF”), and USA Securities, LLC
12 (collectively, the “Debtors”) filed petitions seeking relief under Chapter 11 of the Bankruptcy
13 Code. By order entered on June 9, 2006, the Court approved the joint administration of the
14 Debtors’ Chapter 11 cases.

15 2. Effective as of the Petition Date, Mesirow Financial Interim Management, LLC
16 (“Mesirow”) has been employed as crisis managers to the Debtors, and Thomas J. Allison of
17 Mesirow has served as the Debtors’ Chief Restructuring Officer. I am employed by Mesirow as a
18 Senior Vice President, and I have worked extensively for the Debtors under Mr. Allison’s
19 direction since Mesirow’s engagement.

20 3. I currently have custody of the Debtors' books and records, including all records
21 related to membership interests in FTDF.

22 4. I have reviewed the following documents: (1) Fifth Omnibus Objection of the
23 Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC –
24 Misfiled Claims (“Fifth Claims Objection”); (2) Sixth Omnibus Objection of the Official
25 Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC – Claims
26 Based on Prepetition Equity Security Interests of USA Capital First Trust Deed Fund, LLC (“Sixth
27 Claims Objection”); (3) Seventh Omnibus Objection of the Official Committee of Equity Security
28 Holders of USA Capital First Trust Deed Fund, LLC – Amount of Proofs of Interest (“Seventh

1 Claims Objection"); and (4) Eighth Omnibus Objection of the Official Committee of Equity
 2 Security Holders of USA Capital First Trust Deed Fund, LLC – Proofs of Claim and Proofs of
 3 Interest Filed by Members of USA Capital First Trust Deed Fund, LLC Who Filed Both Proofs of
 4 Claim and Proofs of Interest ("Eighth Claims Objection").

5 5. Under my direction the names of the "Claimants" listed on Exhibit "1" to the Fifth
 6 Claims Objection have been reviewed in conjunction with FTDF's books and records. I have
 7 determined that none of the Claimants listed on Exhibit "1" to the Fifth Claims Objection hold
 8 membership interests in or are creditors of FTDF. I have further determined that the Claimants
 9 who filed FTDF Proofs of Claim Numbers 140, 141, 142, 143, 144, 145, and 149 are direct
 10 lenders in loans serviced by USACM. The claimants who filed FTDF Proofs of Claim Numbers
 11 146 and 147 are also direct lenders in loans serviced by USACM but these claimants filed the
 12 same claims against all the Debtors including USACM.

13 6. Under my direction the names of the "Claimants" listed on Exhibit "1" to the Sixth
 14 Claims Objection have been reviewed in conjunction with FTDF's books and records. Based on
 15 that comparison, I have determined that the amount of the Claimants' equity interests in FTDF is
 16 the amount listed on Exhibit "1" to the Sixth Claims Objection under the column titled "Amount
 17 of Equity Interest Per Debtors' Records." I have further determined that, except for Geraldine M.
 18 Price who is listed on FTDF's Schedule F as being owed \$225 for a pre-petition outstanding check
 19 that was voided, none of the Claimants listed on Exhibit "1" to the Sixth Claims Objection are
 20 creditors of FTDF. Finally, I have determined that FTDF Proofs of Claim Numbers 39, 127, 128,
 21 and 129 are duplicative of other claims filed against FTDF.

22 7. Under my direction the names of the "Claimants" and/or Equity Interest Holders
 23 listed on Exhibit "1" to the Seventh Claims Objection have been reviewed in conjunction with
 24 FTDF's books and records. Based on that comparison, I have determined that the amount of the
 25 Claimants' and/or Equity Interest Holders' equity interests in FTDF is the amount listed on
 26 Exhibit "1" to the Seventh Claims Objection under the column titled "Amount of Equity Interest
 27 Per Debtors' Records." I have further determined that, except for Rosalie Allen Morgan who is
 28 listed on FTDF's Schedule F as being owed \$790.07 for a pre-petition outstanding check that was

1 voided, none of the Claimants and/or Equity Security Holders listed on Exhibit “1” to the Seventh
2 Claims Objection are creditors of FTDF. In addition, I have determined that FTDF Proofs of
3 Interest Numbers 20 and 62, and FTDF Proof of Claim Number 20 are duplicates of other claims
4 or proofs of interest filed against FTDF. Finally, I have determined that the Loughlin Family
5 Trust (FTDF Proof of Interest No. 75) does not hold a membership interest in FTDF but is a direct
6 lender in loans serviced by USACM.

7 8. Under my direction the names of the “Claimants” and/or Equity Interest Holders
8 listed on Exhibit “1” to the Eighth Claims Objection have been reviewed in conjunction with
9 FTDF’s books and records. Based on that comparison, I have determined that the amount of the
10 Claimants’ and/or Equity Interest Holders’ interests in FTDF is the amount listed on Exhibit “1” to
11 the Eighth Claims Objection under the column titled “Amount of Equity Interest Per Debtors’
12 Records.” I have further determined that, except for Bill McHugh who is listed on FTDF’s
13 Schedule F as being owed \$225 for a pre-petition outstanding check that was voided and John E.
14 and Sandra L. Brown who are each listed on FTDF’s Schedule as being owed \$91.67 each for pre-
15 petition outstanding checks that were voided, none of the Claimants listed on Exhibit “1” to the
16 Eighth Claims Objection are creditors of FTDF. Finally, I have determined that each of the claims
17 listed on Exhibit “1” to the Eighth Claims Objection is duplicative of a proof of interest already
18 filed against FTDF.

19 9. I declare, under penalty of perjury, that the foregoing statements are true and
20 correct to the best of my knowledge and belief.

21 || DATED this 8th day of March, 2007.

Susanna

Susan M. Smith